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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,830	08/25/2000	Martin J. Steffensmeier	00CR002/KE	6297

7590 06/21/2006

Rockwell Collins Inc
Intellectual Property Department
400 Collins Road NE M/S 124-323
Cedar Rapids, IA 52498

EXAMINER

NGUYEN, KEVIN M

ART UNIT	PAPER NUMBER
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2629

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/648,830

Applicant(s)

STEFFENSMEIER ET AL.

Examiner

Kevin M. Nguyen

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-20.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


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Continuation of 11.

Response to Arguments

Applicant's arguments filed 06/13/2006 have been fully considered but they are not persuasive.

Applicant argues with respect to claims 1, 8 and 15 "the combination of Cappels with Henderson is improper. Cappels does not even relate to the problem associated with the present invention and Henderson," see remarks at page 8. In response, examiner respectfully disagrees Henderson discloses damage to the phosphorescent screen of a CRT by an electron beam is minimized by preventing the display of stationary image on the screen, see the abstract. A means for preventing burn-in effects on the CRT caused by prolonged display the same image, see col. 1, lines 5-8. Cappels discloses a system and method of compensating for the effects of aging of phosphors in CRT, see the title and the abstract. Therefore, the combination of Henderson and Cappels is analogous art and proper.

Applicant argues with respect to claims 1, 8 and 15 "there is no mention of a static image and/or burn-in problem in Cappels," see remarks at page 8. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In response, Henderson discloses "damage to the phosphorescent screen of a CRT by an electron

beam is minimized by preventing the display of stationary image on the screen," see the abstract.

In response to applicant's argument that there is no suggestion to combine the references (see remarks page 8 and page 9), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation with respect to claims 1, 8, and 15 has been provided at the each end of the combination of Henderson and Cappels.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning (see remarks at page 9), it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant argues with respect to claims 1, 8 and 15 "Henderson does not move the static image," see remarks at page 8. In response, examiner respectfully disagrees. Henderson discloses. As stated *supra* with respect to claim 1, 8, and 15, Henderson

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discloses preventing the display of stationary image on the screen minimizes damage to the phosphorescent screen of a CRT by an electron beam, see the abstract. A means for preventing burn-in effects on the CRT caused by prolonged display the same image, see col. 1, lines 5-8, col. 1, lines 5-34, and Figs. 2 and 3, col. 3, lines 3-58 for further details of the explanation.

Applicant argues with respect to claims 1, 8 and 15 "Focus spot 28 as taught with reference to Fig. 3 is not an image original is discussed," see remarks at page 10. In response, examiner respectfully disagrees. As stated supra and in the office action mailed 4/12/2006, Henderson discloses preventing the display of stationary image on the screen minimizes damage to the phosphorescent screen of a CRT by an electron beam, see the abstract. A means for preventing burn-in effects on the CRT caused by prolonged display the same image, see col. 1, lines 5-8, col. 1, lines 5-34. Therefore, the stationary image as taught by Henderson is an image origin as recited in claims 1, 8, and 15.

Applicant argues that dependent claims 2-7, 9-14, and 16-20 with the emphasis of the recitation in the independent claims 1, 8 and 15 (see remarks at page 10). In response, the examiner respectfully submits that the applicant argues only base on the independent claims; therefore, the arguments are not moot. As alleged in greater details above, and office action mailed 4/12/2006 with respect to independent claims 1, 8, and 15, the combined teaching of Henderson, Cappels, and Marflak meets all that limitation with respect to claims 1, 8, and 15.

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Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

For these reasons, the rejection based on Henderson, Cappels, and Marflak et al. has been maintained.